

## **SUBCHAPTER G : LUMBERTON MUNICIPAL UTILITY DISTRICT IN HARDIN COUNTY**

### **§284.101. Definitions.**

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

**Commission** - The Texas Water Commission.

**District** - The Lumberton Municipal Utility District.

**Executive director** - The executive director of the Texas Water Commission.

**Organized disposal system** - Any public or private system for the collection, treatment, and disposal of sewage operated in accordance with the terms and conditions of a permit from the Texas Water Commission.

**Private sewage facility** - All facilities, systems, and methods used for the disposal of sewage other than disposal systems operated under a permit issued by the Texas Water Commission.

**Sewage** - Waste that is primarily organic and biodegradable or decomposable and that generally originates as human, animal, or plant waste from certain activities, including using toilet facilities, washing, bathing, and preparing food.

**Standards** - The standards set forth in the pamphlet entitled "Construction Standards for On-Site Sewerage Facilities" and all future amendments thereto, which were adopted by the Texas Board of Health, pursuant to Texas Civil Statutes, Article 4477-1, as Texas Department of Health rules, 25 TAC §§301.11-301.17 (relating to Construction Standards for On-Site Sewerage Facilities), effective January 1, 1988.

**Subdivision** -

(A) A subdivision which has been platted and recorded with the county clerk of the county or counties in which the land lies, or which is required by statute to be so platted and recorded; or

(B) Any two or more adjoining lots or tracts, any of which is less than one acre in size.

### **§284.122. Regulated Area.**

The regulated area is the area for which the provisions of this subchapter apply. This area is defined as all the area within the boundaries of the Lumberton Municipal Utility District in Hardin County.

### **§284.123. Discharge of Sewage Within the Regulated Area.**

All sewage disposal within the regulated area shall be in accordance with one of the following types of authorization:

(1) sewage discharged into an organized waste disposal system or other facility operating under a valid permit issued by the Texas Water Commission;

(2) sewage discharged into private sewage facilities licensed by the district in accordance with these regulations; or, sewage discharged into an alternate type of private sewage facility which meets the standards of the Texas Department of Health and is licensed by the district; or

(3) sewage discharged into a private sewage facility existing within the regulated area as of February 7, 1979, for so long as such private sewage facility is operating properly and is not causing nuisance conditions or pollution or a threat to public health.

**§284.124. Licensing Functions.**

The Lumberton Municipal Utility District is designated by the Texas Water Commission to perform all licensing functions of this subchapter.

(1) The district shall have the power to:

(A) enforce all the provisions contained in this subchapter;

(B) make inspections of all private sewage facilities located or to be located within the area covered by this subchapter;

(C) collect all fees set by the district as necessary to recover all costs incurred in meeting the requirements of this subchapter; and

(D) establish procedures, prepare application forms, etc., as necessary to administer this program and to issue, cancel, or transfer licenses in accordance with the provisions of this subchapter.

(2) The district shall perform all duties necessary to meet the requirements of this subchapter.

**§284.125. Licensing Requirements for New Private Sewage Facilities.**

(a) Private sewage facilities installed after the effective date of this subchapter within the boundaries of the regulated area must meet the following requirements.

(1) A license must be obtained for the construction of these facilities from the district.

(2) All private sewage facilities to be installed or constructed after the effective date of this subchapter must conform to Lumberton Municipal Utility District Specifications for Installation of New, Repair of, and Modification of Existing Individual Private Sewage Systems and to the minimum standards as contained in the most current version of the Standards, which is available from the Lumberton Municipal Utility District office, located in Lumberton, Texas.

(3) The lot or tract which the private sewage facility will serve must meet the minimum sizes as set out in the most current version of the "Standards."

(4) The private sewage facility must be maintained to prevent malfunctioning and the creation of pollution or any public health nuisance.

(b) The following shall apply to new private sewage facilities.

(1) Any license issued under the authority of this subchapter will be transferred to a succeeding owner and such license will continue in existence, provided the new owner applies to the district and provided there is no significant change in the amount or quality of waste to be placed in the private sewage facility. The district will charge a transfer fee whenever a license is transferred to a succeeding owner.

(2) Application forms for licenses may be obtained from the district. In order to initiate an application, a completed application form together with the appropriate fee shall be filed with the district. Approval of the application by the district must be obtained prior to the beginning of any construction on a private sewage facility.

(3) The district will cause to be performed such inspections and tests as may be deemed necessary as soon as practicable.

(4) Percolation tests shall be conducted by the district or by any professional engineer or registered sanitarian licensed by the State of Texas. When the district conducts the percolation tests, it shall be the responsibility of the contractor or property owner to prepare all test holes and provide adequate clean water necessary to conduct the percolation tests.

(5) Upon a finding by the district that use of the private sewage facility will not cause pollution or injury to the public health and is not in conflict with the terms and requirements of this subchapter, a license will be issued.

(6) Upon a finding by the district that the private sewage facility will not be licensed, the applicant shall be notified in writing of that finding and of the nature of the defects which prevent licensing.

**§284.126. Approval of Subdivision Plans for Private Sewage Facilities.**

(a) Any developer or other interested person desiring to create a subdivision using private sewage facilities must first show to the board of directors of the district why it is not feasible to either connect to an existing or planned public wastewater collection and treatment system or to establish such a system for the planned development.

(b) Any developer or other interested person creating a subdivision using private sewage facilities must obtain approval of his plan for wastewater disposal from the board of directors of the district. To obtain approval, he must meet all the terms and conditions of this subchapter and he must inform each prospective buyer in writing:

(1) that the subdivision is subject to all of the terms and conditions of this subchapter;

(2) that a permit will be required for private sewage facilities constructed in the subdivision; and

(3) that a sewage disposal plan has been filed for the subdivision and that the areas judged suitable for private sewage facilities have been defined.

(c) If the investigation pursuant to this section reveals that a lot, section, or any portion of the subdivision is not suitable for the use of private sewage facilities, the prospective buyer or buyers shall be so notified.

(d) The district will cause to be prepared a percolation test profile of the entire subdivision, consisting of percolation tests of a representative number of proposed lots or tracts (as determined and approved by the district) to determine whether the subdivision can be served with private sewage facilities, such tests to be at the expense of the developer.

(e) By direction of the district, all or part of the tests may be performed by an engineering firm or soils testing laboratory approved by the district. The district will notify the developer of the findings of its examination and will point out any deficiencies in the plan for sewage disposal. Specifically, the district will notify the developer of any areas not suitable for use of private sewage facilities and whether the proposed developmental density is consistent with the use of private sewage facilities. Approval of a subdivision plan for sewage disposal does not constitute a license for a specific private sewage facility. An approved plan is, however, a prerequisite for obtaining a private sewage facility license in a subdivision.

**§284.127. Existing Private Sewage Disposal System.**

(a) Private sewage disposal facilities existing within the regulated area as of February 7, 1979, are not required to be licensed, provided the facility is not causing pollution or injury to public health or nuisance conditions as set out in Texas Civil Statutes Article 4477-1.

(b) If a system in existence before February 7, 1979, is found to be malfunctioning, the district shall require correction and licensing as a new system in accordance with §284.125 of this title (relating to Licensing Requirements for New Private Sewage Facilities).

(c) Private sewage disposal facilities existing within the regulated area as of February 7, 1979 must be licensed as a new facility if the facility is substantially or materially altered.

(d) Licenses for private sewage facilities issued by the district pursuant to Texas Department of Water Resources rules (§§371.121-371.135 of this title (relating to Lumberton Municipal Utility District in Hardin County)), which are replaced by this subchapter shall remain in effect for the term stated therein as if issued pursuant to this subchapter.

**§284.128. Connection of Private Sewage Facilities to Organized Waste Collection, Treatment, and Disposal Systems.**

In order to implement the stated policy of the legislature and the commission that the development and use by interested and affected parties of organized waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state should be encouraged, the following requirements are made.

(1) No license shall be issued for any private sewage facility when any part of the facility is closer than 300 feet in horizontal distance to an organized waste collection, treatment, and disposal system capable of serving in lieu thereof; rather, the facility shall be connected to the organized system whenever feasible and legally possible.

(2) Whenever an organized system with service capability is developed within 300 feet in horizontal distance from any part of a private sewage facility, that facility shall be connected to the organized system whenever feasible and legally possible.

**§284.129. Registration of Installers and Maintainers.**

(a) Any person constructing, modifying, or cleaning a private sewage facility system for anyone other than themselves on any property other than their own must first be registered with the Lumberton Municipal Utility District. The manager of the district will acquaint such person with all the requirements of this subchapter upon registration.

(b) Any person constructing, modifying, and cleaning a private sewage facility system for anyone other than themselves on any property other than their own, who knowingly violates any section or subsection of this regulation may be removed from the register and is subject to all penalties provided herein.

**§284.130. Terms and Conditions for Granting Exceptions.**

The Texas Water Commission intends that the requirements contained in this subchapter be enforced but realizes that certain individual situations may require the granting of an exception so that hardships may be avoided. Therefore, the following terms and conditions are established.

(1) Any person desiring an exception shall file an application with the district for its analysis of the specifics of the situation.

(2) The district shall review the application and issue a statement either granting or denying the application. When an application is denied, the statement shall set out the reasons for the district's decision, and may also set out what corrective measures, if any, could be undertaken to obtain licensure.

**§284.131. Terms and Conditions for Appeal.**

(a) The commission intends that any disputes concerning the application of this subchapter to individual situations be negotiated to conclusion between the licensing authority and the individuals involved, if possible. However, any person aggrieved by an action or decision of the licensing authority may appeal to the Texas Water Commission if the following terms and conditions of this subchapter have been met.

(1) All of the appropriate steps required by the aggrieved person by the terms and conditions of this subchapter have been met.

(2) The aggrieved person has made a conscientious effort to resolve his problems with the licensing authority.

(b) Appeal is properly made by the aggrieved party by filing a written statement stating with specificity the nature of the grievance. This statement is to be filed with the executive director of the commission who will then cause notice of the appeal to be issued to the licensing authority. The executive director will then forward the appeal to the Texas Water Commission for its consideration.

**§284.132. License Fees.**

(a) License fees will be in accordance with §284.135 of this title (relating to Fee Schedule). These fees shall be paid to and collected by the district so long as the district is delegated the licensing function and the administration of the licensing system specified in this subchapter.

(b) The establishment of the fee schedule does not impair or prohibit the imposition of reasonable charges by the district for special services performed by the district at the request of the applicant in connection with presentation of an application and required data.

**§284.133. Enforcement.**

(a) Criminal penalty, Texas Water Code, §26.214.

(1) Any person who violates any provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each day that a violation occurs constitutes a separate offense.

(2) Jurisdiction for prosecution of a suit under this section is in the justice of the peace courts.

(3) Venue for prosecution of a suit under this section is in the justice of the peace precinct in which the violation is alleged to have occurred.

(b) Civil penalty. A person who violates any provision of this subchapter is subject to an injunction by court order and to a civil penalty for each act of violation and for each day of violation, to be recovered as provided in the Texas Water Code, Chapter 26.

**§284.134. Severability Clause.**

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, the validity of the remaining provisions of this subchapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

**§284.135. Fee Schedule.**

The district shall establish a fee schedule for the private sewage facilities regulatory program within the district and maintain a copy of such fee schedule at district offices for inspection by the public. Such fee schedule shall set reasonable fees for services performed by or at the direction of the district and may, subject to applicable laws, be amended by the district from time to time.